

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**



October 29, 2012

Mr. Christopher H. Collins, Esquire  
Holland & Knight LLP  
800 17<sup>th</sup> Street, N.W.  
Washington, DC 20006

Re: Prepared food shop in RC/C-2-A zone

Dear Mr. Collins:

This letter is in response to your recent question regarding the permitted scope of certain food-related uses in the RC/C-2-A zone. The C-2-A zone allows certain food-related uses as a matter of right where, as a principal use, food is served for on-premises and/or off-premises consumption, including: drive-in type restaurant; prepared food shop with up to 18 seats; bar or cocktail lounge, and restaurant. In addition, a bakery and a food or grocery store are also permitted as a matter of right in the C-2-A zone. The Reed Cooke Overlay zoning regulations prohibit bars and cocktail lounges, and restaurants, among other things. Thus, a prepared food shop with up to 18 seats is a permitted matter of right use in the RC/C-2-A zone. A bakery, and a food or grocery store, are also permitted as a matter of right in the RC overlay.

You have asked to what extent food may be prepared and served in a "prepared food shop" as that term is defined in the Zoning Regulations. The particular premises under discussion has a Certificate of Occupancy (No. CO 166360, dated 5/28/08) for "prepared food shop / accessory retail food product sales (no wholesale or manufacturing) on first floor in Reed Cooke/C-2-A. (Not to exceed 18 seats). Baking for chocolate-based candies and pastries only."

A prepared food shop is defined as - "a place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor." Prepared food is defined as-" food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop."

Thus, the issue of whether food is "prepared food" for purposes of this definition is a temporal one. Food can be prepared ahead of time (i.e. cooked, baked, boiled, broiled, grilled, fried, etc.) with an oven, stove and other cooking devices on the premises of a prepared food shop, and then stored temporarily for later service on-site to a customer for either on-premise or off-premise consumption. If the food is to be heated on the premises before service to the customer, this may be done by way of a microwave oven or toaster. I would interpret this definition to also reasonably include other means of reheating previously-prepared food, such as

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by the use of a soup pot. The important distinction is that the food cannot be "prepared" (other than by simply assembling and/or reheating) after a customer orders it. For example, a sandwich may be assembled after being ordered by the customer. A previously-prepared quiche or pizza or soup or pie or pastry may be reheated for sale to a customer. A previously-cooked rotisserie chicken, or similar food item, may be sold to a customer.

In addition, alcoholic beverages may be sold on the premises, provided that the establishment is not "principally devoted to the sale of" alcoholic beverages, as would be the case in a bar or cocktail lounge, both of which are prohibited in the RC overlay.

Incidentally, the language on the certificate of occupancy limiting the baking to "chocolate-based candies and pastries only" may have come from the application form that was filled out by the applicant, but it is not an enforceable zoning restriction.

Please let me know whether you have any questions.

Sincerely,   
Matthew Le Grant  
Zoning Administrator